

National Science Foundation

§ 617.15

§ 617.12 Compliance procedure.

(a) NSF may enforce this part by either termination of a recipient's financial assistance from NSF for the program or activity involved where the recipient has violated the Act or this part or refusal to grant further financial assistance under the program or activity involved where the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases settled in the mediation process or before a hearing will not involve termination of a recipient's Federal financial assistance from NSF.

(b) NSF may also enforce this part by any other means authorized by law, including but not limited to:

(1) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations by this part.

(2) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or this part.

(c) NSF will limit any termination or refusal to grant further financial assistance to the particular recipient and the particular program or activity found to be in violation of the Act. NSF will not base any part of a termination or refusal on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance for NSF.

(d) NSF will not begin any hearing under paragraph (a) until the Director has advised the recipient of its failure to comply with this part and has determined that voluntary compliance cannot be obtained.

(e) NSF will not terminate or refuse to grant financial assistance until thirty days have elapsed after the Director has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the program or activity involved. The Director will file a report whenever any action is taken under paragraph (f) of this section.

(f) *Alternate Funds Disbursal Procedures.* (1) When NSF withholds funds from a recipient under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient: Any public or non-profit private organization or agency, or State or political subdivision of the State.

(2) The Director will require any alternate recipient to demonstrate:

(i) The ability to comply with these regulations; and

(ii) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

[49 FR 49628, Dec. 21, 1984, as amended at 68 FR 51383, Aug. 26, 2003]

§ 617.13 Hearings, decisions, post-termination proceedings.

Procedures prescribed in 45 CFR 611.9 and 611.10 for NSF enforcement of Title VI of the Civil Rights Act of 1964 shall apply also for NSF enforcement of this part. At the conclusion of any action taken under § 617.12, NSF, shall remind both parties of the right to judicial review established by 42 U.S.C. 6105.

§ 617.14 Remedial action by recipients.

Where the Director finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action the Director may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the Director may require both recipients to take remedial action.

§ 617.15 Exhaustion of administrative remedies.

(a) A complainant may file a civil action after exhausting administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed a sufficient complaint and NSF has made no finding with regard to the complaint; or

(2) NSF issues any finding in favor of the recipient.

(b) If NSF fails to make a finding within 180 days or issues a finding in favor of the recipient, NSF will:

(1) Promptly advise the complainant of this fact; and